

REMARKS/ARGUMENTS

Claims 1-12 and 14-18 are pending in the application prior to filing this paper. Claims 1, 3, 11, 14, and 15 are amended. Claims 19 and 20 are new.

Claims 1, 11, and 14 are amended to recite that the top and bottom plates have only two flanges, and that the respective interior flanges and webs of the top track and top plate are in direct contact with each other, and that the respective interior flanges and webs of the bottom track and bottom plate are in direct contact with each other. Support for such amendments may be found in Applicants' specification at paragraphs [0007], [0010], [0028], and [0029] and FIGS. 1, 2, 4, 7, and 8.

Claims 3 and 15 are amended to reflect that the slot is defined by the web in addition to the projections, that the slot is between the projections, and that an approximately vertical edge of rigid insulation is disposed in the slot. Claim 11 is further amended to clarify the formation of a first slot by second and third planar tabs with the web, formation of a second slot by first and fourth planar tabs with the web, and approximately vertical edges of first and second rigid insulation sheets are disposed in the first and second slots, respectively. Support for such amendments may be found in Applicants' specification at paragraphs [0010], [0013], [0030]-[0033], and [0039] and FIGS. 1, 2, 4, 5, and 6.

Applicants gratefully acknowledge the Examiner's time and consideration in discussion the present application in an interview on December 17, 2008 ("the Interview"). In the Interview, the Examiner and Applicants' attorney agreed that the amendments to claim 1 reflected herein overcome the rejection based on U.S. Patent No. 4,361,994 to Carver. The Examiner and Applicants' attorney also discussed, with respect to claim 11, the Examiner's rejection based on U.S. Patent No. 1,074,242 to Caldwell and U.S. Patent No. 1,905,616 to

Zanella. The Examiner and Applicants' attorney agreed that amendments such as those made to claim 11 herein would overcome this rejection, with the amendments clarifying that the rigid insulation is received in slots that are defined by the web in addition to the tabs of the thermal framing component.

Claim Rejections – 35 USC § 103

Claims 1 and 2 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carver. Independent claim 1 as amended was agreed in the Interview to overcome Carver, and is therefore allowable.

Claims 3-5, 7, and 14-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carver in view of Caldwell. Claims 8 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carver/Campbell and further in view of U.S. Patent Application Publication No. 2001/0004820 to Poliquin. Claims 9, 11, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carver/Caldwell and further in view of U.S. Patent No. 1,905,616 to Zanella. Claims 10 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carver/Caldwell and further in view of U.S. Patent No. 1,867,329 to Ryan. Claim 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Carver/Caldwell/Zanella and further in view of Ryan.

First, independent claims 11 and 14 as amended are nonobvious over the cited references for at least the same reasons amended claim 1 is nonobvious over Carver, as agreed in the Interview, in that claims 11 and 14 include similar amendments to amended claim 1, namely, the top and bottom plates include only two flanges, and the interior flanges and webs of top and bottom tracks and plates, respectively, are in direct contact.

In addition, Caldwell discloses a "metal structure" that serves the function of a structure,

stud, or joist. Plaster boards 2 or equivalent are held in place with the metal structure, which have angled flanges 3 and bendable tangs 4. See Caldwell col. 1, line 52 to col. 2, line 66 and FIG. 2. Slots that receive the plaster boards 2 are formed by the angled flanges 3 and the bendable tangs 4, and are not defined by the web. Zanella is directed to a concrete form board truing holder, which is a short clip with tabs. Combining the teachings of Zanella with Caldwell would change the principle of operation of Caldwell, which holds plaster board outside the limits of the web. As agreed in the Interview, independent claim 11, as amended, recites a slot that is formed with the web in addition to the tabs, as applicable, and is therefore nonobvious over Carver and Caldwell in view of Zanella. This is also applicable to independent claim 14 and to dependent claims 3, 9, and 15 with respect to their respective cited references, and these claims are also therefore allowable. Applicants respectfully request withdrawal of the 103 rejection for these claims.

Claims 3 and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carver in view of U.S. Patent No. 4,435,936 to Rutkowski. Rutkowski is directed to a metal stud with first and second sides 14, 16 at each edge of a web 12, with tabs 64 cut into the web. The first and second sides include double and single thickness flanges. The Examiner contends that the portion of the stud from the first side to the tabs makes up a framing component and that the remainder makes up a stud. Applicants respectfully submit that Applicants' claim 3 recites a web having edges; one edge of the web in Rutkowski is in the area designated by the Examiner as the stud. Also, the sides of the web in Rutkowski do not have projections extending in both directions at right angles; rather, material extends from the edges of the web at a right angle in only one direction, and then doubles back. Carver in view of Rutkowski does not teach or suggest the recited elements, and claim 3 is therefore nonobvious.

Dependent claims 2-10 depend either directly or indirectly from independent amended claim 1. Claim 12 depends from amended independent claim 11. Claims 15-18 depend directly or indirectly from amended independent claim 14. Because of those dependencies, these claims contain all of the features of their base independent claim, which is in each case allowable. Therefore, such claims are submitted to be patentably distinguishable over the cited references. In addition, these dependent claims all recite features not taught or suggested individually or in combination by any of the cited references.

New Claims

Claims 19 and 20 recite elements not disclosed in the cited art, either individually or in combination. In addition, they depend directly or indirectly from amended, allowable claim 1, and are allowable for the same reasons. Support for such new claims may be found in Applicants' specification at paragraphs [0007], [0010], [0028], and [0029] and FIGS. 1, 2, 4, 7, and 8.

CONCLUSION

For the foregoing reasons, the Applicant respectfully submits that the claims of Applicants' application are not fairly taught or suggested by the cited references. Reconsideration and withdrawal of the rejection of claims 1-12 and 14-20 at an early date are respectfully requested.

If the Examiner has any questions about the present Amendment or anticipates finally rejecting any claim of the present application, a telephone interview is requested.

Respectfully submitted,

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